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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,415	09/29/2000	James M. Crawford JR.	020431.0742	9669

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EXAMINER	
ALVAREZ, RAQUEL	

ART UNIT	PAPER NUMBER
3688	

NOTIFICATION DATE	DELIVERY MODE
08/31/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	09/675,415	CRAWFORD ET AL.	
	Examiner	Art Unit	
	Raquel Alvarez	3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 February 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-43* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-43* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/24/09*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to communication filed on 2/3/2009.

2. Claims 1-43 are presented for examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4-5, 8-13, 15, 18-19, 22-27, 29, 30, 33-34, 37-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Cragun et al. (5,774,868, Cragun hereinafter).

With respect to claims 1, 4, 5, 8, 9-13, 15, 18-19, 22-27, 29, 30, 33-34,37-42 Cragun teaches a system for rendering content according to availability data for at least one item (Abstract). A server configured to receive a content request from a user in a current interactive session, and in response to retrieve the requested content (i.e. the customer using an interactive device such as a telephone or a sale register makes a request to make a purchase and the requested purchase is made available to the customer)(col. 3, lines 66-, col. 4, lines 1-15); a rendering engine configured to the server and operable to identify at least one rule within the user-requested content and concerning the item (col. 4, lines 15-27); the rendering engine further configured to render the requested content, including content concerning the item (col. 4, lines 15-27); a rules engine configured to the rendering engine and configured to receive availability

data for the item (i.e. the in-store data relates to the inventory information of the item)(col. 17, lines 39-44); retrieve additional content according to the availability data for the item, the additional content being selected from among one or more stored content elements that concern the item (col. 4, lines 18-27); communicate the additional content concerning the item to the rendering engine for incorporation in the user-requested content (col. 17, lines 61-, col. 18, lines 1-6); the rendering engine further configured to render the user-requested content, including the additional content concerning the item (col. 4, lines 18-27 and lines 61-, col. 18, lines 1-6); the server further configured to communicate the rendered user-requested content to the user in the current interactive session to satisfy the user-supplied content request (Figures 1 and 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 6-7, 14, 20-21, 28, 35, 36 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cragun.

Claims 6, 20 and 35 further recite that the availability data consist of inventory, delivery and pricing information. Since, Cragun teaches that the availability data includes inventory information and other information related to the products to be recommended such as the weather and the time of the item in order to recommend the

most suitable item (col. 17, lines 32-44) then it would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included delivery and pricing information of the item to better predict items that will be purchased by the customers.

Claims 7, 21 and 36 further recite pricing information in accordance with a promising policy from multiple suppliers of the items. Official notice is taken that it is old and well known to receive pricing information from a variety of entities in accordance with a preset promising policy. For example, in electronic auctions pricing terms are pre-negotiated with the various suppliers or entities that are willing to fulfill a customer's order in order to provide consistency within the system. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included pricing information in accordance with a promising policy from multiple suppliers of the items in order to achieve the above mentioned advantage.

With respect to claims 14, 28 and 43, Cragun teaches that the selected item are selected from availability for the item to which the recommendation is directed and a characteristic of a user to which the recommendation is to be presented (co. 17, lines 32-60). Cragun does not specifically teach that the profitability for the item to which the recommendation is directed and the item that the seller wishes to optimize. Official notice is taken that it is old and well known to taken into account the profitability and the items that the sellers want to optimize in the recommendation process. For example, real estate agents will try to sell their own listings in order to maximize their profits. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's

invention to have included the profitability for the item to which the recommendation is directed and the item that the seller wishes to optimize in order to obtain the above mentioned advantage.

5. Claims 2-3, 16-17, 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cragun in view of Linden et al. (6,266,649 hereinafter Linden).

Claims 2, 16 and 31 further recite that the server is a web server and that the request comprises a Hypertext Transfer Protocol request containing a Uniform Resource Locator for a particular page. Linden teaches collaborative recommendations using item-to-item similarity mappings. The user logs into the Amazon.com web server and requests information for a particular web page (see Figure 6). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the teachings of Linden of the server being a web server and that the request comprises a Hypertext Transfer Protocol request containing a Uniform Resource Locator for a particular page because such a modification would provide world wide access to the system.

With respect to claims 3, 17 and 32 in addition to some of the limitations addressed above in the rejection to claims 2 and 16, the claims further recite that the rules are incorporated into the requested content. Since the combination of Cragun and Linden teach rules corresponding to the recommended item then it would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included incorporating the rules into the requested content because such a modification would allow for the convenience of allowing for the rules to be requested when necessary.

Response to Arguments

6. The claims as amended on 2/3/2009 overcame the 101 rejection.

7. Cragun teaches receiving in a current interactive session a content request from a user and in response to the user supplied content request retrieving the user requested content (i.e. the customer using an interactive device such as a telephone or a sale register makes a request to make a purchase and the requested purchase is made available to the customer, the customer purchases are on real-time basis)(col. 3, lines 66-, col. 4, lines 1-15 and col. 2, lines 21-24).

8. Applicant argues that Cragun does not teach "receiving a content request from a user in a current interactive session, and in response to the user-supplied content request, to retrieve the user-requested content" and "communicate the rendered user-requested content to the user in the current interactive session to satisfy the user-supplied content request". The Examiner respectfully disagrees with Applicant because Cragun clearly teaches on col. 3, lines 66 to col. 4, lines 1-15, the customer using an interactive device such as a telephone or a sale register to make a request for a purchase and the requested item is supplied or made available to the customer.

9. Applicant argues that Cragun automatically and without customer's knowledge collects data and that the promotion coupons are not requested by the customer. The Examiner wants to point out that the claims do not recite if the data collected about the purchases is sent with or without customer's knowledge or if the additional content (additional items) concerning the purchase is requested by the customer. The claims recite "**receiving a content request from a user ….. and in response to the user-**

supplied content request, to retrieve the user-requested content". The user-requested content is for the purchase of an item , which is taught by Cragun on col. 3, lines 66-, col. 4, lines 1-15, in Cragun the user request for the purchase of an item is sent to a server in order for the request of the purchase to be fulfilled (col. 3, lines 66-, col. 4, lines 1-15) and based on the user purchases, the system determines additional items likely to be purchased by the customer (Abstract and col. 4, lines 18-27). The claims do not recite that the user-request the additional content concerning the purchased item (sales promotions coupons for the items purchased) or if the user has any knowledge that this data is being collected and analyzed in order to provide or recommend additional items. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

10. Applicant argues that there's no user interaction with the sales promotion system. The Examiner respectfully disagrees with Applicant because in Cragun the user communicates the items to be purchased to the system by means of a telephone or a sales register (col. 4, lines 3-15). Therefore the user interacts with the system in order for the information to be passed on to the system.

11. With respect to Applicant's argument that Cragun discourages user interaction with the sales promotion system because Cragun teaches on col. 2, lines 17-20 that "it would be advantageous to automate the selection process, thereby removing individual skill at the local level from influencing the selection and permitting greater data analysis to take place". The Examiner wants to point out that the above teachings of Cragun

does not discourage user interaction with the sale system at all. The above teachings of Cragun merely refers to automating the system/process by "removing individual skill at the local level" the individual that Cragun refers to are employees such as sales clerks being replaced with an automated process/machine. Cragun does not discourage or automate the user/customer from interacting with the sale system . Cragun as addressed above clearly teaches the user interacting with the sale system by communicating the purchased items to the system (col. 4, lines 3-15).

12. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Linden teaches recommending additional items to a customer based on selected items using a web server to carry out the invention and therefore Cragun can be combined to include the server being a web server as taught by Linden because such a modification would provide world access to the system. Appellant is reminded that a person of ordinary skill in the art is presumed to have some knowledge about the art. Given the web server of Linden, one of ordinary skill in the art would have the knowledge or would know that the server being a web server would allow broader use of the system.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Point of contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert A. Weinhardt can be reached on (571)272-6633. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/
Primary Examiner, Art Unit 3688

Raquel Alvarez
Primary Examiner
Art Unit 3688

R.A.
8/27/2009